IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
WRIT PETITION NO. 2953 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.)

Court's or Judge's orders

Mr. P.K. Dhakephalkar for Petitioner.

Mr. R.M. Patne, A.G.P. for State.

Mr. G.D. Otangale for Respondent No. 2.

Mr. Y.S. Bhate for Respondent No. 1.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 10, 2005

P.C.

. Rule. Heard forthwith.

. Various issues involved except for a limited issue cannot be gone into in the exercise of our extra ordinary jurisdiction. The Petitioner claims as developer who was permitted to develop the property by the Pandit Cooperative Housing Sopciety Limited with permission of Respondent No. 2. The case of the Petitioner is that pursuant to the permission he is acting on the same and has carried on development.

. The case of the Respondent No. 3 Society is that they have terminated the agreement for development with the petitioner as far back as 1999 and

thereafter have appointed Respondent No. 4 as new developer. It is their case that the Respondent No. 4 pursuant to the agreement has carried out development in the said property. Considering rival contentions, as to who has constructed, this court do not propose to go into that issue.

. The Respondent No. 2 is the authority having over all control, in the matter of development of the areas notified as slum area. The developer can be appointed only with their permission. The new developer can also be appointed only with their permission. Once that be the case, Respondent No. 2 is duty bound before agreeing to the appointment of the new developer to hear the developer who has been working as to whether prima facie there is valid termination in the eyes of law. In the instant case, it appears that apart from some correspondence respondent No. 2 has not given hearing to the petitioner in the matter of termination of their contract of the development agreement by Pandit Cooperative Housing Society Ltd. In the light of that Respondent No. 2 is directed to hear the petitioner and Pandit

Cooperative Housing Society Ltd and if need be also Respondent No. 4 as to whether the development agreement between the Respondent No. 3 and the Petitioner has been prima facie validly terminated. If that be so, thereafter to decide the same according to law.

. We make it clear that in so far as merits of the matters are concerned, we have decided nothing and left all questions open for consideration of the competent authority including the competent civil court. With above directions, petition disposed of. No order as to costs.

. S.R.A. to complete the exercise within four weeks from today.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)